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November 13, 2002

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COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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***By** Hand Delivery*

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Written **Ex** Parte*
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Camers – CC Dockets No. 01-338, 96-98, and 98-147

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's rules, attached for inclusion in the record of the three above-referenced proceedings is a letter from Kimberly Scardino, on behalf of WorldCom, Inc., to Michelle Carey of the FCC. **A** total of six copies are provided, two for each of the above-referenced dockets, pursuant to 47 C.F.R. § 1.1206(b)(1).

Sincerely,

Ruth Milkman

Attachment

cc: Christopher Libertelli
Jordan Goldstein
Thomas Navin
Robert Tanner
Matthew Brill
William Maher
Brent Olson
Linda Kinney
Daniel Gonzalez
Michelle Carey
Jeremy Miller

No. of Copies rec'd 0+6
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WORLDCOM

November 13,2002

By Hand Delivery

Michelle Carey
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Written Ex Parte*
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Camers – CC Dockets No. 01-338.96-98, and 98-147

Dear Ms. Carey:

In response to questions from Commission staff, WorldCom, Inc. ("WorldCom") hereby provides additional information regarding the viability of the DSO Enhanced Extended Link ("DSO EEL").' WorldCom has previously explained that TELRIC-priced EELs with concentration potentially could facilitate the expansion of unbundled loop or UNE-L-based competition to some markets in which UNE-L competition otherwise would be impossible.[2] Because, at present, DSO EELs with concentration are generally unavailable[3] and DSO EELs without concentration are priced at levels that do not permit competitors a reasonable opportunity to compete, it is not possible at this time to draw firm conclusions with respect to the viability of DSO EELs. WorldCom remains hopeful, however, that in the future, Commission principles and standards governing the availability and pricing of DSO EELs, combined with state commission investigation and oversight, might enable WorldCom and other competitive

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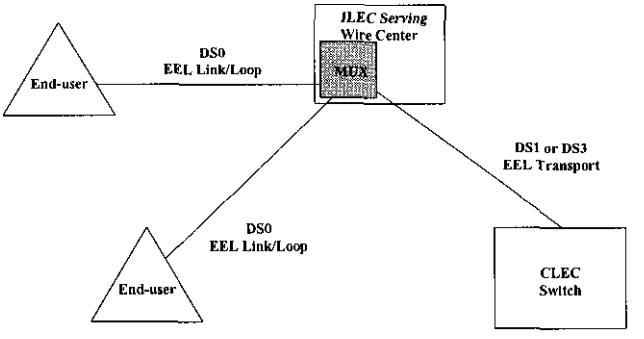
1 An EEL is a combination of a loop and dedicated transport, and usually includes some type of multiplexing (*i.e.*, combining a number of channels onto a single higher-bandwidth channel). Under the FCC's rules and the Supreme Court's decision in *Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002), incumbent LECs are required to make combinations of elements, including EELs, available to competitive carriers.

2 *See Ex Parte Presentation,* "Delivering Local Competition to the Mass Market: Considerations for Transitioning to UNE-L Based Strategy," attached to Letter from Ruth Milkman, Counsel for WorldCom, to Marlene H. Dortch, Secretary, FCC, CC Dkt. No. 01-338 (Nov. 5, 2002) *("Delivering Local Competition Ex Parte").* The availability of TELRIC-priced DSO EELs with concentration is only one of several items that must be resolved prior to evaluating whether transition to UNE-L is both economically and operationally feasible. A description of the other necessary conditions is beyond the scope of this letter.

3 *See infra* note 7.

local exchange carriers ("LECs") to use TELRIC-priced DSO EELs with concentration to offer UNE-L-based service in areas in which it would otherwise be economically inefficient to do so.

A "DSO" EEL is used generically here to describe a 2-wire voice grade circuit employed for the "loop," which is connected to the end-user, purchased together with some level of transport (*e.g.*, DS1) and multiplexing. The figure below shows a typical multiplexed EEL.



Multiplexed EEL

A "concentrated" DSO EEL uses concentration equipment and a protocol such as GR-303 to concentrate more DSOs on a transport circuit with a given capacity. In contrast to multiplexing, or "muxing," which involves connecting voice grade DSOs to DSO-equivalents on a higher bandwidth circuit in a 1:1 ratio,[4] concentration involves a many-to-one ratio. That is, concentration can be set to various ratios (*e.g.*, 4:1, 6:1) to allow for 4 or 6 or more DSOs to be transported on a DSO-equivalent circuit. Thus, when DSOs are combined onto a DS1 with 6:1 concentration, 144 DSOs (*i.e.*, 24 times 6) are transported over a single DS1 (instead of just 24 with a simple multiplexer).[5] By aggregating more traffic onto a DS1 or DS3, competitive LECs are able to reach more customers more efficiently.

If priced at TELRIC, DSO EELs with concentration potentially could be a viable means to expand the customer base that could be served by a competitor over its own switch if that switch is located near multiple central offices that include a sufficient number of customers

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[4] For example, a one-to-zero ("1/0") mux takes 24 DSOs and muxes them onto a single DS1 (which is designed to carry 24 voice channels). This approach, however, is efficient only when the circuits are in constant or heavy use, which is not generally the case for residential customers.

[5] Of course, concentration does increase the potential that a given call will be blocked during periods of heavy usage.

currently served via UNE-P.[6] TELRIC-priced DSO EELs with concentration would enable competitive LECs to provide mass market services via their own switches without collocating at multiple incumbent LEC central offices ("COs"). This is critical, as the very high fixed cost of collocation and collocation equipment often in and of itself precludes switch-based competition. Use of concentrated transport as part of the DSO EEL could further reduce the competitive LEC's cost disadvantage by significantly increasing the efficiency of the leased transport.

Nonetheless, at present, it does not appear that competitive carriers are using DSO EELs to provide service. In part, this is because concentrated DSO EELs are generally not available, and the states in which they are available require competitive LECs to virtually collocate before using such EELs.[7] And in part this is because the non-concentrated DSO EELs that are tariffed in a number of states are priced at levels that appear to greatly exceed incumbent LEC costs and therefore disadvantage competitors.[8] While WorldCom has shown that competitive LECs may be able to compete in some markets using concentrated EELs at true TELRIC rates (as opposed to current rates that are above TELRIC),[9] the current prices for non-concentrated DSO EELs do not permit such competition. Prices for DSO EELs vary dramatically across the nation, but even the lowest of these prices appears to preclude competition. For example, WorldCom compared the prices for DSO EELs among twenty states using the following three simplifying assumptions: (1) high-density zone; (2) DS1 transport would utilize 20 (out of 24) channels; and (3) a transport distance of 8 miles. Employing these assumptions, the typical monthly cost of a DSO EEL in Texas, which is among the states with the lowest rates for DSO EELs, totals approximately $22.77. The non-recurring charge ("NRC") in Texas is approximately $60.14.[10] By contrast,

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[6] In incumbent LEC wire centers where the competitor is already collocated, the competitor would simply make use of the unbundled loop, assuming it was economically viable to do so.

[7] Concentrated EELs *are* currently tariffed in New York and Pennsylvania. ***See*** Verizon New York Inc., PSC NY No. 10 - Communications, § 5.14.2.19 (effective Sept. 1,2001); Verizon Pennsylvania Inc., Pa. P.U.C.-No. 216, § 3.B.l.i.l (effective July 12,2001). However, these tariffs require that competitive LECs virtually collocate before ordering concentrated EELs, eliminating the main advantage of such EELs. Concentrated EELs are also available in New Jersey as a "product offering."

[8] For example, some variant of the DSO EEL is available and has been priced in at least the following states (this list is not exhaustive): Arizona, Arkansas, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, Kansas, Missouri, South Dakota, Utah, Washington, Wyoming, New York, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Texas, Michigan, Illinois, South Carolina, Kentucky, Mississippi, Tennessee, and Louisiana.

[9] ***See*** Bryant Declaration, attached to WorldCom Reply Comments, CC Dkt. No. 01-338. ¶¶ 48-54 (July 17, 2002) ("Bryant Decl.").

[10] Texas had one of the lowest DSO EEL rates of all the states WorldCom evaluated. Two other states had slightly lower recurring monthly rates, but had substantially higher *NRCs* (Colorado had a monthly rate of $22.00 and an *NRC* of $201.66 and Washington had a monthly

using the same baseline assumptions, the per-loop cost of a DSO EEL in Oregon, which is among the states with the highest rates for DSO EELs, can surpass $37. The NRC in Oregon exceeds a staggering $247 per loop. But even the Texas rate does not allow competitive LECs a reasonable opportunity to compete with incumbent LECs in serving customers. The recurring rate alone is almost as high as SBC's local retail rate of $22.80 in Zone 1, including the Subscriber Line Charge."

Although WorldCom has not conducted a detailed analysis of the cost models in each of the states that it evaluated, it appears that one reason the recurring rates for DSO EELs are so high in many of these states is that the rates charged for the muxing equipment are far above cost. The rates for the muxing equipment are generally priced out at $5 to $10 per line per month in these states (in some cases equaling the TELRIC cost for the loop itself), whereas in WorldCom's Bryant model the muxing equipment is priced out at pennies per line per month.'' Thus, while competitive LECs cannot compete using DSO EELs at present rates, competitors may in the future be able to compete in some markets using DSO EELs if they are priced at true TELRIC rates – especially if competitive LECs are also able to obtain concentration in conjunction with these EELs.

In addition to these pricing issues, at least one party has raised technical issues regarding the provisioning of DSO EELs.[13] Specifically, Eschelon Telecom, Inc. ("Eschelon") argues that DSO EELs are more complicated to provision because they will require three to four separate cross-connectjumpers, while the unbundled loop requires only two. Eschelon further claims that it will be more difficult to isolate service troubles on DSO EELs because the competitive LEC will not have remote test access to cross connect points in the incumbent's facilities.

At this point, WorldCom does not believe that these are insurmountable obstacles. First, while DSO EELs will undoubtedly require additionaljumpers, there are likely ways of managing the process in a way that minimizes service disruption. For example, the additionaljumpers

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rate of $21.62 with an NRC of $193.60). Unfortunately, in many cases, the tariffs for EELs contain pricing information that is so cryptic that it is difficult to analyze the circumstances in which the cost case would prove out. The circumstances in which NRCs apply, for example, tend to be especially unclear. The ambiguity in the tariffs exacerbates the difficulty for a competitive LEC attempting to determine whether to use DSO EELs.

11 The NRCs are an independent barrier to use of DSO EELs. Today, NRCs for DSO EELs (including the loop and transport components) are much higher than the NRCs for UNE-P, or even the very high NRCs for unbundled loops. *See, e.g., Delivering Local Competition Ex Parte* at 12 (listing NRCs for hot cuts). As long as these charges remain so high, it is unlikely that it will make economic sense to use EELs to offer service even if recurring rates are reduced.

12 *See* Bryant Decl. ¶ 38 & Attachment E.

13 Letter from David **A.** Kunde, Executive Vice President of Network Operations, Eschelon Telecom, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission at 2-3 (Oct. 21,2002).

could be moved and tested before the final jumpers are cross-connected – thus facilitating the ability to isolate and correct problems before the final jumpers (*i.e.*, the same number of jumpers associated with the unbundled loop) are cross-connected. Additionally, if the loop at issue is not the competitive LEC's first DSO loop in a particular central office, the additional jumpers will already be in place and functioning. Second, trouble isolation and maintenance and repair issues could be resolved. There are standard operating procedures for testing unbundled loops and special access circuits today, all of which include the incumbent LEC performing testing on behalf of the competitive carrier if the carrier is not able to perform its own testing.

Thus, WorldCom continues to believe that TELRIC-priced DSO EELs with concentration potentially could provide a way for competitors to serve additional residential customers via their own switches in certain markets if economic and operational issues were resolved. The states are best equipped to resolve such issues and could do so in collaborative proceedings with interested parties. At present, however, competitive LECs cannot use concentrated DSO EELs to compete effectively with incumbent LECs in providing service. Thus, competitive LECs remain impaired without access to unbundled switching.

Please contact me if you have any additional questions

Sincerely,

Kimberly Scardino/RH

Kimberly Scardino
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